

## **REMARKS**

Claims 1-25 are pending. Claims 1-5, 13-15, 19-21, 24, and 25 are rejected. Claims 1, 6-12, 16-18, 23, and 24 are objected to.

Claims 1, 4, 6, 7, 9-11, 14, 19, 21, and 24 are amended. Claim 8 is canceled. Claim 35 is new.

## **ELECTION/RESTRICTIONS**

Applicants affirm their Election of Group I, claims 1-25. Claims 26-34 are withdrawn.

## **DRAWINGS**

The specification is amended to eliminate the reference to element 26 in conjunction with the embodiment of FIG. 9. This amendment does not introduce new matter, because the device as now described in the specification is clearly shown in Figure 9 and adequately described in the original specification, including exit port 98. Applicant believes that this amendment is fully responsive to the objection.

## **CLAIM OBJECTIONS**

Claims 1, 11, and 24 are amended to provide antecedent basis, addressing the objections. Applicants respectfully request the objections be withdrawn.

## **CLAIM REJECTIONS UNDER 35 U.S.C. §102**

Claims 1-3, 13-15, 19, and 20 are rejected under 35 U.S.C. 102(b) as anticipated by Brown U.S. Patent No. 6,354,729.

Amended independent claim 1 recites a delivery container including a fluid reservoir holding a propellant fluid. Brown does not disclose the use of his device in conjunction with a propellant fluid.

Claim 1 also recites that the suspendible agent is delivered to the exit port when the delivery mechanism is operated to cause the propellant fluid to flow through the fluid path. As Brown's specification discloses, and as the Examiner states, propellant fluid so delivered into Brown's device would mix the contrast agent with the propellant fluid. However, Brown does not disclose that causing the propellant fluid to flow through the fluid path would deliver the suspendible agent to the exit port. In fact, Brown's purpose is "distributive mixing" (col. 2 line 23). Causing propellant fluid to flow through Brown's device would mix the propellant fluid with the suspendible agent, rather than delivering the suspendible agent to the exit port. Brown's device is not configured to deliver one fluid when another fluid enters the suspension apparatus, as Applicants disclose and recite in claims 1-3, 13-15, 19, and 20.

Because Brown does not disclose a fluid reservoir holding a propellant fluid or a suspendible apparatus that delivers a suspendible agent to an exit port when the propellant fluid flows through a fluid path, Brown does not anticipate claims 1-3, 13-15, 19, and 20.

Claims 1, 16, and 17 are rejected under 35 U.S.C. 102(b) as anticipated by Kawasaki U.S. Patent No. 5,368,382.

Amended independent claim 1 requires a delivery container including a fluid reservoir holding a propellant fluid. Kawasaki does not disclose the use of his device in conjunction with a propellant fluid.

Claim 1 also recites that the suspendible agent is delivered to the exit port when the delivery mechanism is operated to cause the propellant fluid to flow through the fluid path. As Kawasaki's specification discloses, propellant fluid so delivered into the device would mix the contrast agent with the propellant fluid. However, Kawasaki does not disclose that causing the propellant fluid to flow through the fluid path would deliver the suspendible agent to the exit port. In fact, the purpose of Kawasaki's device is to "homogenise the paste" (col. 2 line 27). Causing propellant fluid to flow through Kawasaki's device would mix the propellant fluid with the suspendible agent, rather than delivering the suspendible agent to the exit port. Kawasaki's device is not configured to deliver one fluid when another fluid enters the suspension apparatus, as Applicants disclose and recite in claims 1, 16, and 17.

Because Kawasaki does not disclose a fluid reservoir holding a propellant fluid or a suspendible apparatus that delivers a suspendible agent to an exit port when the propellant fluid flows through a fluid path, Kawasaki does not anticipate claims 1, 16, and 17.

Claims 21 and 25 are rejected under 35 U.S.C. 102(b) as anticipated by Duffy U.S. Patent No. 4,767,415.

Claims 21 and 25 require a plurality of pairs of first and second plates with a stacked arrangement. The Examiner shows items 11 and 10 of Duffy FIG. 3 as first and second plates. However, items 10 represents parts of a single body stretching the length of the syringe shown in various states in Duffy's FIGS. 1-5. As shown at Duffy FIG. 4, body member 10 has a core member 11 of plastic material with a helical groove 15 formed around the periphery, the pathway defined by the helical groove 15 sealed by the surrounding cylindrical sleeve 12 (col. 5 lines 10-18). Duffy nowhere discloses any arrangement of stacked plates. Because Duffy does not teach the limitations of claims 21 and 25, Duffy does not anticipate claims 21 and 25.

#### **CLAIM REJECTIONS UNDER 35 U.S.C. §103**

Claim 1 is rejected under 35 U.S.C. 103(a) as obvious over Brown, analyzed above, in view of Lassota U.S. Patent No. 6,837,397.

Applicants incorporate their previous distinctions over Brown. Lassota does not cure its deficiencies, at least because Lassota does not teach, suggest, or motivate a delivery container including a fluid reservoir holding a propellant fluid, nor does Lassota teach, disclose, or suggest that a suspendible agent is delivered to an exit port when the delivery mechanism is operated to cause the propellant fluid to flow through a fluid path. Thus, Brown in view of Lassota does not render claim 1 obvious.

Claim 1 is rejected under 35 U.S.C. 103(a) as obvious over Kawasaki, analyzed above, in view of Naef U.S. Patent No. 2,957,430.

Applicants incorporate their previous distinctions over Kawasaki. Naef does not cure its deficiencies, at least because Naef does not teach a delivery container including a fluid reservoir holding a propellant fluid, nor does Naef teach that a suspendible agent is delivered to an exit port when the

delivery mechanism is operated to cause the propellant fluid to flow through a fluid path. Thus, Kawasaki in view of Naef does render claim 1 obvious.

#### **ALLOWABLE SUBJECT MATTER**

Claims 6-12, 14, 18, 19, and 22-24 are objected to as depending from a rejected base claim, but containing allowable subject matter.

Applicant has thus rewritten claim 4 in independent form and including all the limitations of dependent claim 8 (now canceled). Because original claim 8 contained allowable subject matter, amended independent claim 4 and the claims from which it depends contain allowable subject matter. Therefore, this amendment places claims 4-7 and 9-13 in condition for allowance.

Applicant has also rewritten claim 19 in independent form and including all the limitations of its base claim and all intervening claims. Because original claim 19 contained allowable subject matter, amended independent claim 19 contains allowable subject matter. Therefore, this amendment places claim 19 in condition for allowance.

#### **NEW CLAIM**

Independent claim 35 is new. It contains all of the limitations of claim 1, as currently amended, except that it does not include the limitation that suspendible agent is delivered to said exit port after flowing through said radial flow channel and said plurality of circumferential flow channels. New claim 35 is supported by the original application, including claim 1 as originally filed, and does not introduce new matter.

#### **CONCLUSION**

The application is believed to be in complete condition for allowance with no fees due. If fees are necessary, the Examiner is authorized to charge them to Deposit Account 20-0809. The Examiner is invited to contact Applicant's undersigned representative with questions.

Respectfully submitted,

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